Supreme Court, U.S.
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IN THE SUPREME COURT OF THE UNITED STATES

MONTGOMERY BLAIR SIBLEY,

PETITIONER,

VS.

THE FLORIDA SUPREME COURT,

RESPONDENT.

ON PETITION FOR WRIT OF CERTIORARI TO THE
FLORIDA SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

MONTGOMERY BLAIR SIBLEY
50 WEST MONTGOMERY AVENUE
SUITE B-4
ROCKVILLE, MARYLAND 20850

PETITIONER

QUESTIONS PRESENTED FOR REVIEW

The Florida Supreme Court has entered an order sanctioning Petitioner by denying him access to the Florida Supreme Court. Accordingly, presented for review are three questions:

WHETHER, this Court's holding in *Donovan v. City of Dallas* prevents the Florida Supreme Court from so sanctioning Petitioner.

WHETHER, the Florida Supreme Court's finding that Petitioner's claims were "meritless", "abusive" and "frivolous" was so disingenuous as to violate federal guarantees of due process.

WHETHER, it is constitutionally permissible for Florida to limit access to court absent a finding of "frivolousness".

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PETITION FOR WRIT OF CERTIORARI TO THE FLORIDA SUPREME COURT

Petitioner, Montgomery Blair Sibley, prays that a writ of certiorari issue to review the judgment and opinion of the Florida Supreme Court entered on April 27, 2006, and upon which rehearing was denied on June 15, 2006.

Review is appropriate as the Florida Supreme Court has (i) decided an important question of federal law that has not been, but should be, settled by this Court, and (ii) has decided an important federal question in a way that conflicts with relevant decisions of this Court.

OPINIONS BELOW

The April 14, 2005, order of the Florida Supreme Court Dismissing the Petition and to Show Cause is reprinted in the Appendix hereto, *Appendix -2*

The April 27, 2006, order of the Florida Supreme Court Sanctioning Petitioner is reprinted in the Appendix hereto, *Appendix-4.*

The June 15, 2006, order of the Florida Supreme Court denying rehearing is reprinted in the Appendix hereto, *Appendix-8.*

JURISDICTION

The jurisdiction of this Court is invoked under Article III and the Ninth Amendment to the United States Constitution and 28 U.S.C. §1257(a).

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES AND REGULATIONS INVOLVED

U.S. CONSTITUTION ARTICLE III, § 2

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states;-- between a state and citizens of another state;--between citizens of different states;--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

U.S. CONSTITUTION, FOURTEEN AMENDMENT

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

On November 4, 2004, Petitioner filed a petition with the Florida Supreme Court seeking review of the Florida Judicial Qualification Commission's ("JQC")[1] conclusions that there was no evidence of inappropriate conduct on the part of:

> (i) A trial judge for holding an *ex parte* hearing upon an un-noticed *ore tenus* motion that was not made on an emergency basis and concerned a substantive matter and issuing a ruling without affording Petitioner an opportunity to be heard;
>
> (ii) Two intermediate appellate judges for engaging in *ex parte* communication with Petitioner's opposing counsel immediately prior to oral argument before them and their subsequent refusal to disclose the nature of that *ex parte* communication when specifically requested by Petitioner; and
>
> (iii) The entire Florida Third District Court of Appeals for regularly meeting *ex parte* with certain chosen counsel informally before and after oral arguments and refusing to disclose the nature of those communications.

On April 14, 2006, the Florida Supreme Court issued its order (i) dismissing the petition of Petitioner and (ii) directing Petitioner to show cause why "the Court should not impose upon him a sanction for his litigiousness . . .". *Appendix*-3.

Petitioner timely filed a response to that order to show cause

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[1] The Judicial Qualifications Commission is an independent agency created by the Florida Constitution solely to investigate alleged misconduct by Florida state judges.

on April 26, 2005.

A year later, on April 27, 2006, the Florida Supreme Court issued its order sanctioning Petitioner by directing the Clerk of the Florida Supreme Court to "reject for filing any future pleadings, petitions, motions, documents or other filings" submitted by Petitioner "in any way related to his domestic disputes unless signed by a member in good standing of the Florida Bar." *Appendix-6.*

This timely Petition followed.

REASONS FOR GRANTING THE WRIT

First, this Court's holding in *Donovan v. City of Dallas*, 377 U.S. 408 (1964) prevents the Florida Supreme Court from sanctioning Petitioner for exercising his right to access federal court as was done here.

Second, the Florida Supreme Court's finding that Petitioner's claims were "meritless", "abusive" and "frivolous" is so disingenuous as to violate federal guarantees of due process. As detailed below: (i) Petitioner did not file three of the eight petitions which the Florida Supreme Court found "meritless", (ii) two of the petitions were denied as "moot" thus their "merit" was never determined and (iii) the remaining three petitions were all filed as part of Petitioner's state and federal guarantees of the right to appeal and in all events were not contemporaneously deemed "meritless", "abusive" or "frivolous".

Last, whether it is constitutionally permissible for Florida to limit access to court absent a finding of "frivolousness" as the Florida Supreme Court has done to Petitioner here.

I. DONOVAN V. CITY OF DALLAS PRECLUDES THE FLORIDA SUPREME COURT FROM SANCTIONING PETITIONER

In *Donovan v. City of Dallas*, 377 U.S. 408, 413 (1964), this Court unequivocally stated:

> Petitioners being properly in the federal court had a right granted by Congress to have the court decide the issues they resented, and to appeal to the Court of Appeals from the District Court's dismissal. They have been punished both for prosecuting their federal-court case and for appealing it. They dismissed their appeal because of threats to punish them more if they did not do so. The legal effect of such a coerced dismissal on their appeal is not now before us, **but the propriety of a state court's punishment of a federal-court litigant for pursuing his right to federal-court remedies is. That right was granted by Congress and cannot be taken away by the State. The Texas courts were without power to take away this federal right by contempt proceedings or otherwise.** (Emphasis added).

Here, in the order of April 14, 2005, the Florida Supreme Court stated: "The Court notes that the Third District Court of Appeal has already imposed such a sanction on petitioner. *See: Sibley v. Sibley*, 885 So. 2d 980, 988 (Fla.3d DCA 2004)." *Appendix*-3.

In *Sibley v. Sibley*, 885 So. 2d 980, 988 (Fla.3d DCA 2004), the Florida Third District Court of Appeal in entering the referenced order stated: "In addition, the former husband has filed at least twelve actions in federal court against judges who have been assigned to his cases, the court system, and the former

wife." *Id.* at 988.[2]

Accordingly, for being "properly in the federal court", Petitioner was sanctioned by the Florida Supreme Court – a result prohibited by *Donovan.* Implicit in such action is that "The [Florida] courts were without power to take away this federal right by contempt proceedings or otherwise." Here, the "otherwise" is the denial to Petitioner of access to the Florida Supreme Court as a result in part of having properly accessed federal court without a single finding there of frivolousness.

Given that this Court has yet to open up the federal district courts for redress of this wrong[3], Petitioner now enjoys a right under *Donovan* without a *locus* to pursue a remedy.

Accordingly, this Court must accept certiorari of this matter to breathe life into *Donovan* and secure the right of litigants to access federal court without fear of state court reprisal.

II. Due Process Requires Undisputed Credibility

Second, the Florida Supreme Court's finding that Petitioner's claims were "meritless", "abusive" and "frivolous" is so disingenuous as to violate federal guarantees of due process.

Obviously, there is a presumption of honesty and integrity in those serving as adjudicators. *Cf: Withrow v. Larkin,* 421 U.S. 35, 47 (1975). That presumption is based upon the realization that without "honesty" and "integrity" the judicial system would be one of form without substance.

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[2] This Court declined review of that matter in No. 04-1411.

[3] Pending before this Court is No. 05-1625 which raises this issue. This Court has also refused to review this issue in No. 04-1309.

Here, incredible as it sounds at first, the Florida Supreme Court was neither "honest" nor demonstrated "integrity" in their opinion of April 28, 2006. [4]

The Florida Supreme Court's *ex cathedra* pronouncement of "clear abuse of judicial process" was without evidentiary support in the record. When this was pointed out to the Florida Supreme Court by Petitioner, this inconvenient fact was ignored on two occasions and oral argument was denied to Petitioner by the Florida Supreme Court though specifically requested.

The Florida Supreme Court premised its April 14, 2005, Order to Show Cause upon its apparently foregone conclusion that "petitioner has abused the processes of the Court with his numerous meritless filings" and that "[g]iven the petitioner's clear abuse of judicial process in the Court. . .". *Appendix*-3.

However, a review of the eight cases the Florida Supreme Court cited to justify its conclusion of Petitioner's "abuse" reveal that no such "abuse" was present. Apparently, the Florida Supreme Court was motivated by matters outside the record as an honest, full and public review of those cases cannot possibly support such a finding of "abuse".

Those cases by the Florida Supreme Court in chronological order with descriptions are:

1. *Sibley v. Sibley*, SC02-1309 (Fla. Nov. 22, 2002) - In this case Petitioner claimed that the Third District Court of Appeals,

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[4] "Perhaps the sentiments contained in the following pages, are not YET sufficiently fashionable to procure them general favour; a long habit of not thinking a thing WRONG, gives it a superficial appearance of being RIGHT, and raises at first a formidable outcry in defense of custom." *Common Sense,* Thomas Paine, Introduction to the Third Edition.

in direct conflict with the Florida Supreme Court and the First, Second, Fourth and Fifth District Court of Appeals, held that two days notice for (i) a hearing and (ii) for deposition to out-of-state parties comports with both due process and Florida Rules of Civil Procedure, Rule 1.090(d). The Florida Supreme Court denied review but noteworthy found nothing frivolous, abusive or incomprehensible in the petition.

2. *Sibley v. Spears*, SC02-2644 (Fla. May 27, 2003) - In this case, Petitioner – who was incarcerated at the time – was represented by attorney Bart Billbrough. Mr. Billbrough, not Petitioner, filed this action – against Petitioner's express wishes to the contrary based upon the Florida Supreme Court's holding in *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002) which plainly prohibited such a suit. Hence, for the Florida Supreme Court to impose upon Petitioner responsibility for this patently improper filing which he opposed is simply beyond the pale. And again, nothing frivolous, abusive or incomprehensible was found in the petition at that time.

3. *Sibley v. Sibley*, SC03-8 (Fla. Aug. 18, 2003) - Following upon his incompetent pleading in SC02-2644, Mr. Billbrough continuing to represent Petitioner who was still incarcerated and again filed his petition over Petitioner's objections in this matter. This matter was likewise dismissed though nothing frivolous, abusive or incomprehensible was found in the petition at that time. Accordingly, responsibility for this filing cannot be placed upon Petitioner.

4. *Sibley v. Spears*, SC03-261 (Fla. Feb. 18, 2003) - Continuing his litany of incompetence and again over Petitioner's express direction that Mr. Billbrough continue litigating this *habeas corpus* matter in Federal Court as state court remedies had been exhausted, Mr. Billbrough filed this matter only to see it suffer the same fate as SC02-2644 and SC03-8. Hence and again, to seek to impose responsibility for this filing on Petitioner is simply unfair. Notably, nothing frivolous, abusive or

incomprehensible was found in the petition at that time.

5. *Sibley v. Sibley*, SC03-1070 (Fla. Sept. 20, 2004) - On June 11, 2003, Petitioner filed a petition seeking an order (i) staying all the Circuit and District Court proceedings below pending disposition of the petition, (ii) issuing an writ of mandamus directing that the Circuit Court Judge to rule on the seventh, eighth and ninth motions to disqualify her and (iii) changing the District Court of Appeal hearing these matters from the Third District Court of Appeals which has regularly and systematically shown a bias sufficient to warrant disqualification of the entire Third District Court of Appeal. Fourteen months later, on August 18, 2004, this Court entered its order in SC03-1070 that "this proceeding appears now to be moot given that the Third District issued a ruling on the petition for writ of prohibition in *Sibley v. Sibley*, Case No. 3D03-1392, on August 6, 2003, and denied petitioner's motion for rehearing, clarification, and request for written decision on September 26, 2003." Accordingly, on September 9, 2004, the Florida Supreme Court dismissed SC03-1070 as "moot". Hence, the merits of this petition were <u>never</u> addressed due to the Florida Supreme Court's delay of over 14 months in addressing the substance of this petition. And again, the Florida Supreme Court found nothing frivolous, abusive or incomprehensible in the petition.

6. *Sibley v. Sibley*, SC03-1953 (Fla. Sept. 3, 2004) - In this case Petitioner sought review of the Third District Court of Appeal's opinion in 3D03-1392 which declared moot the circuit court judge's refusal to rule upon three outstanding motions to disqualify her while she continue to conduct hearing and issue orders in Petitioner's family court case. On September 24, 2004, the Florida Supreme Court simply declined to exercise its jurisdiction to review and barred any motion for rehearing. Noteworthy is that the Florida Supreme Court found nothing frivolous, abusive or incomprehensible in the petition.

7. *Sibley v. Sibley*, SC04-178 (Fla. Apr. 14, 2004) - On

February 16, 2004, Petitioner filed a petitioner seeking (i) a writ of prohibition restraining the Honorable Alan Schwartz, Chief Judge of the Third District Court of Appeal and the Honorable Juan Ramirez, Jr and David L. Levy, Associate Judges of the Third District Court of Appeal from presiding as judges in Case No. 3D03-2083 pending in the Third District Court of Appeal or, alternatively, (ii) a writ of mandamus directing a ruling with written decision upon Father's un-resolved motions to disqualify (i) Judge Schwartz and (ii) Judges Juan Ramirez, Jr and David L. Levy. This petition arose from the failure of the Florida Third District Court of Appeal to rule upon a motion to disqualify filed by Petitioner pending in 3D03-2083. The Florida Supreme Court denied the petition on April 14, 2004, after learning that it was moot as those judges had entered orders granting Petitioner's motion to disqualify them on March 23, 2004, in Case No.: 3D03-2083. Anon, the Florida Supreme Court found nothing frivolous, abusive or incomprehensible in the petition.

8. *Sibley v. Sibley*, SC05-11 (Fla. Mar. 15, 2005) - In this case, Petitioner sought review of the June 18, 2004, opinion of the Third District Court of Appeals in Case No.: 3D04-1466 which he maintained expressly and directly conflicted with the Florida Supreme Court and District Court decisions: (i) under Florida Family Law Rules, Rule 12.440(a) and Florida Rules of Civil Procedure, Rule 1.440, that "within a reasonable time from the service of the notice for trial" the court "shall enter an order setting the action for trial, fixing a date for trial, and setting a pretrial conference, if necessary"; (ii) that mandate that a motion to disqualify be granted when a trial judge enters an order prohibiting a litigant from asserting federal and Florida constitutional rights to appeal any of the trial judge's orders; and (iii) that mandate that a motion to disqualify be granted when the trial judge has engaged in *ex parte* discussions with opposing counsel on a substantive, non-emergency matter. On March 15, 2005, the Florida Supreme Court declined to review citing lack of jurisdiction and prohibited any motion for rehearing but once again found nothing frivolous, abusive or incomprehensible in

the petition.

Accordingly, of the eight cases cited by the Florida Supreme Court that it considers "meritless", "abusive" and "frivolous" to the extent that collectively they warranted barring Petitioner from the Florida Supreme Court:

(i) Three were not filed by Petitioner but his counsel over Petitioner's express wishes (SC02-2644, SC03-8 and SC03-261);

(ii) Two were disposed of as "moot" due to the lethargy of the Florida Supreme Court's addressing the claims in those petitions (SC03-1070 and SC04-178) and hence the "merits" were never addressed by the Florida Supreme Court; and

(iii) In three review was denied for lack of jurisdiction (SC02-1309, SC03-1953 and SC05-11) over a four year period.

Hence, in sum, the Florida Supreme Court sanctioned Petitioner for filing three petitions in four years upon the sole basis that it declined to review citing lack of jurisdiction.

Thus it is with a demonstrable basis in fact that Petitioner now claims that the Florida Supreme Court has abandoned its obligations to be honesty and operate with integrity in its adjudications.

Federal guarantees to Due Process imposed upon the states require more. It is not novel to maintain that if "due process is violated when the prosecutor's actions treat a defendant unfairly or impugn the integrity of the judicial process". Likewise, the same result attends when the judiciary itself so "impugn[s] the integrity of the judicial process." *Smith v. Phillips,* 455 U.S. 209,f/n #5 (1981) citing *United States v. Agurs,* 427 U.S. 97

(1976). Either way, due process cannot countenance the result.

To misrepresent the record to justify sanctioning Petitioner – who truth be told was only properly complaining to the Florida Supreme Court of egregious *ex parte* judicial behavior in the lower courts – violates the tenants of due process just as a prosecutor does who misrepresents the record by withholding evidence. In either case, the judicial process has been impugned to the extent that due process has been denied.

Given that "even if there is no showing of actual bias in the tribunal, this Court has held that due process is denied by circumstances that create the likelihood or the appearance of bias", due process is likewise denied by the appearance – if not the reality – of bias so great as to cause the Florida Supreme Court to dispense with intellectual honesty in their decision. *Peters v. Kiff,* 407 U.S. 493, 502 (1972).

Accordingly, this Court must accept this petition to review the significant departure from the requirements of "honesty" and "integrity" by the Florida Supreme Court in this matter.

III. LITIGIOUSNESS IS A CONSTITUTIONAL RIGHT

Significantly, the Florida Supreme Court initially premised its order to show cause upon a query as to whether "the Court should not impose upon [Petitioner] a sanction for his litigiousness." *Appendix-3.*

Thereafter, in the April 27, 2006, order the Florida Supreme Court – for the first time – stated: "However, petitioner's frivolous and abusive filings must immediately come to an end." *Appendix-6.* This *ex post facto* and gratuitous finding of "frivolous" – while contributing to the intellectual dishonesty of the Florida Supreme Court's orders in this matter – is even more significant because of this simple fact: Not one of the eight Florida Supreme Court cases cited were found to be "frivolous" at the time they were determined. Moreover, not one of the

twenty-five appellate proceedings in the Florida Third District Court of Appeal was found to be frivolous. Finally, not one of the twelve federal district court proceedings was found to be frivolous.

Patently then, for the Florida Supreme Court to claim that Petitioner's filings were "frivolous" is at best a prevarication. Indeed, by this loose leap of language, the Florida Supreme Court has expanded its power to deny access to it to those who though demonstrably not "frivolous" are simply being punished for being "litigious".

While this Court has not expressly recognized "litigiousness" as a federally guaranteed right, several federal circuit courts have so expressly stated. *Accord*: *In re Oliver*, 682 F.2d 443, 446 (3d Cir. 1982)("It should be made clear that Oliver's litigiousness alone would not support an injunction restricting his filing activities. *Pavilonis v. King*, *supra* at 1079; *Ruderer v. United States*, 462 F.2d 897, 899 (8th Cir. 1972) (*per curiam*), *cert. denied*, 409 U.S. 1031 (1972). Access to the courts is a fundamental tenet of our judicial system; legitimate claims should receive a full and fair hearing no matter how litigious the plaintiff may be."); *Pavilonis v. King*, 626 F.2d 1075, 1079 (1st Cir.), *cert. denied*, 449 U.S. 829(1980)("Although upholding the district court in this instance, we emphasize that litigiousness alone will not support an injunction against a plaintiff, *Kane v. City of New York*, 468 F.Supp. 586, 590 (S.D.N.Y.), *aff'd without op.*, 614 F.2d 1288 (2d Cir. 1979), and that the use of such measures against a *pro se* plaintiff should be approached with particular caution, *Hill v. Estelle*, 423 F.Supp. 690, 695 (S.D.Tex.1976). Generally, this kind of order should not be considered absent a request by the harassed defendants"); *Castro v. United States*, 775 F.2d 399, 408 (1st Cir. 1985)("We have recognized that, in extreme circumstances involving groundless encroachment upon the limited time and resources of the court and other parties, an injunction barring a party from filing and processing frivolous and vexatious lawsuits may be appropriate. *Gordon v. United States Department of Justice*, 558 F.2d 618 (1st

Cir.1977) (per curiam). Other circuits have similarly held that district courts have the power under 28 U.S.C. 1651(a) to enjoin litigants who abuse the court system by harassing their opponents. . . . As the district court properly noted, appellants' apparent "affinity for litigation," standing alone, would not provide sufficient justification to issue an injunction.")(Citations omitted).

Likewise, the Florida Supreme Court's conclusion that Petitioner's pleadings were "abusive" is simply false. This Court has identified the meaning of "abusive" in *In Re Demos*, 500 U.S. 16 (1991). In that case, abusive filings which justified a sanction of denying access occurred when Demos had "made 32 *in forma pauperis* filings in this Court since the beginning of the October, 1988, Term, many of which challenge sanctions imposed by lower courts in response to petitioner's frivolous filings. Petitioner's method of seeking relief here -- filing three petitions for relief from a single order of a lower court -- could only be calculated to disrupt the orderly consideration of cases." *Id.* at 16-17.

Plainly, Petitioner pleadings do <u>not</u> fall in the category of litigants such as in *Demos*. As such, the Florida Supreme Court may <u>not</u> sanction Petitioner under a theory of "abusiveness".

Simply stated, as the dissent in *Demos* postulated: "More likely, the Court's ban on Demos' in forma pauperis requests for extraordinary writs is but a poorly disguised penalty for his more numerous petitions for certiorari. *See also In re Sindram*, 498 U.S. 177, 183 (1991) (BLACKMUN, J., dissenting, joined by Marshall, J. (noting that Court's ban upon petitioner's in forma pauperis filings for extraordinary relief 'appears to be nothing more than an alternative for punishing [petitioner] for the frequency with which he has filed petitions for certiorari and petitions for rehearing')." *Id.* at 19.

Accordingly, to stop the Florida Supreme Court from "setting sail on a journey whose landing point is uncertain", this Court

must act to review the practice of the Florida Supreme Court in denying court access to those who it finds objectionable.

CONCLUSION

The implications of denying this petition are substantial. First, the right to access federal court is meaningless if a litigant can be "chilled" from doing so by threat of state court sanctions.

Second, if a tribunal is at liberty to ignore and misrepresent the record and the law to achieve a desire result, the rule of law is no more.

Last, in those rare cases where access to court must be denied to a litigant after a pattern of "frivolous" filings which implicate a "Court's responsibility . . . to see that [judicial] resources are allocated in a way that promotes the interests of justice", such a pattern must be present. *In re McDonald*, 489 U.S. 180, 184 (1989). Here, that pattern is <u>not</u> present and as such to sanction this expansion of judicial control of access to court by denying this petition renders void the access to court guarantees secured by King John's signature on the *Magna Charta* in 1215.

Accordingly, this petition for a writ of certiorari should be granted.

Respectfully submitted,

Montgomery Blair Sibley
Petitioner

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Opinions Below

The April 14, 2005, order of the Florida Supreme Court Dismissing the Petition and to Show Cause . . . . . *Appendix -2*

The April 27, 2006, order of the Florida Supreme Court Sanctioning Petitioner *Appendix-4*

The June 15, 2006, order of the Florida Supreme Court denying rehearing *Appendix-8*

SUPREME COURT OF FLORIDA

APRIL 14, 2005

CASE NO.: SC04-2129

MONTGOMERY BLAIR SIBLEY vs. FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

Petitioner(s) Respondent(s)

The all writs petition is hereby dismissed. *Cf. Tyson v. Florida Bar*, 826 So.2d 265 (Fla. 2002) (disciplinary proceedings against attorneys are instituted in the public interest and to preserve the purity of the courts, no private rights except those of the accused attorney are involved, and the complaining witness is not a party to the disciplinary proceeding and has no right to appeal). This Court does not investigate a determination by the Judicial Qualifications Commission that no formal charges should be instigated against a member or members of the judiciary. See Fla. Jud. Qual. Commn'n R. 6(a).

Since June 6,2002, petitioner has initiated numerous *pro se* cases with the Court, all of which appear to emanate out of his 1994 dissolution of marriage proceedings in the Circuit Court of the Eleventh Judicial Circuit, in and for Dade County, Florida. None of petitioner's filings have resulted in any relief. *See Sibley v.* Sibley No. SC02-1309 (Fla. Nov. 22, 2002)(denying review based on alleged direct conflict of decisions); *Sibley v. Sibley*, No. SC03-8 (Fla. Aug. 18,2003)(same); *Sibley v. Sibley*, No. SC03-1953 (Fla. Sept. 3,2004)(same); *Sibley v. Sibley*, No. SC05-11 (Fla. Mar. 15, 2005)(same); *Sibley v. Spears*, No. SC02-2644(Fla. May 27,2003) (dismissing alleged direct conflict of decisions); *Sibley v. Spears*, No. SC03-261 (Fla. Feb. 18,2003) (same); *Sibley v. Sibley*, No. SC03-1070 (Fla. Sept. 20,2004) (dismissing petition for writ of mandamus as moot);*Sibley v. Sibley*, No. SC04-178 (Fla. Apr. 14,2004) (denying extraordinary

writ petition).

Because petitioner has abused the processes of the Court with his numerous meritless filings, the Court finds that a limitation on-petitioner's ability to initiate any further *pro se* proceedings in this Court may be necessary in order to further the constitutional right of access of other litigants in that it would permit this Court to devote its finite resources to the consideration of legitimate claims filed by others. *See In Re McDonald*, 489 U.S. 180, 184 (1989) (noting that "[e]very paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources"). The Court notes that the Third District Court of Appeal has already imposed such a sanction on petitioner. *See: Sibley v. Sibley*, 885 So. 2d 980, 988 (Fla.3d DCA 2004) (directing the clerk of court to "reject any further filings in this court on the former husband's behalf unless signed by a member of The Florida Bar (other than the former husband)").

Given petitioner's clear abuse of the judicial process in the Court, petitioner is hereby directed to show cause on or before April 29,2005, why the Court should not impose upon him a sanction for his litigiousness, such as directing the Clerk of Court to reject for filing my future pleadings, petitions, motions, documents, or other filings submitted by him related to his 1994 dissolution of marriage proceedings unless they are signed by a member in good standing of The Florida Bar other than petitioner.

ANSTEAD, LEWIS, QUINCE, CANTERO and BELL, JJ., concur.

SUPREME COURT OF FLORIDA

APRIL 27, 2006

CASE NO.: SC04-2129

MONTGOMERY BLAIR SIBLEY vs. FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

Petitioner(s) Respondent(s)

PER CURIAM.

Petitioner, Montgomery Blair Sibley, an attorney licensed in Florida, has previously filed a "Petition to Review the Actions, Policies and Procedures of the Florida Judicial Qualifications Commission," which this Court dismissed on April 14, 2005. Since that original filing attorney Sibley has filed numerous other filings which culminated in the issuance by this Court of an order directing Sibley to show cause why we should not limit his filings or otherwise impose sanctions upon him for filing frivolous proceedings in this Court. We now sanction Sibley.

On November 4, 2004, Sibley, a licensed Florida attorney representing himself, filed in this Court a "Petition to Review the Actions, Policies and Procedures of the Florida Judicial Qualifications Commission." In this filing, Sibley sought to challenge the Judicial Qualifications Commission's decision not to pursue formal charges against several judges about whom Sibley had filed complaints in relation to his ongoing child custody and child support disputes with his ex-wife. The petition was dismissed by order of the Court, which explained its lack of jurisdiction over the Commission, and that "[t]his Court does not investigate a determination by the Judicial Qualifications Commission that no formal charges should be initiated against a member or members of the judiciary. *See Fla. Jud. Qual. Comm'n R.* 6(a)." *Sibley v. Fla. Judicial Qualifications Comm'n*, No. SC04-2129, order at 1 (Fla. Apr. 14, 2005).

In our order of dismissal, the Court noted that since 2002, Sibley had submitted numerous meritless filings in this Court, all related to or emanating out of his 1994 dissolution of marriage proceedings. Id.; see *Sibley v. Sibley*, 900 So. 2d 554 (Fla. 2005) (table) (review denied); *Sibley v. Sibley*, 885 So. 2d 388 (Fla. 2004) (table) (mandamus petition dismissed); *Sibley v. Sibley*, 884 So. 2d 24 (Fla. 2004) (table) (review denied); *Sibley v. Sibley*, 872 So. 2d 899 (Fla. 2004) (table) (prohibition petition denied); *Sibley v. Sibley*, 854 So. 2d 660 (Fla. 2003) (table) (review denied); *Sibley v. Spears*, 846 So. 2d 1149 (Fla. 2003) (table) (review dismissed); *Sibley v. Spears*, 839 So. 2d 699 (Fla. 2003) (table) (review dismissed); *Sibley v. Sibley*, 833 So. 2d 774 (Fla. 2002) (table) (review denied). Subsequent to the issuance of the order to show cause, the Court denied review in yet another case filed by petitioner in this Court, *Sibley v. Sibley*, 901 So. 2d 120 (Fla. 2005) (table). Accordingly, based on his prior abuse of this Court's processes, Sibley was directed to show cause "why the Court should not impose upon him a sanction for his litigiousness, such as directing the Clerk of Court to reject for filing any future pleadings, petitions, motions, documents, or other filings related to his 1994 dissolution of marriage proceedings unless they are signed by a member in good standing of The Florida Bar other than petitioner." *Sibley v. Fla. Judicial Qualifications Comm'n*, order at 2.

In his response, Sibley rejects the notion that his numerous filings constitute an abuse of judicial process and argues that this Court lacks the authority, constitutionally and otherwise, to impose a sanction upon him and restrict his access to this Court. We disagree. This Court and the United States Supreme Court have, when deemed necessary, exercised the inherent judicial authority to sanction an abusive litigant. See, e.g., *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1 (1992); *In re Sindram*, 498 U.S. 177 (1991); *In re McDonald*, 489 U.S. 180, 184 (1989); *Armstead v. State*, 817 So. 2d 841 (Fla. 2002); *Peterson v. State*, 817 So. 2d 838 (Fla. 2002); *Jackson v. Fla. Dep't of Corr.*, 790 So. 2d 398 (Fla. 2001); *Rivera v. State*, 728 So. 2d 1165 (Fla. 1998); *Attwood v. Singletary*,661 So. 2d 1216

(Fla. 1995). One justification for such a sanction lies in the protection of the rights of others to timely review of their legitimate filings. *See Martin*, 506 U.S. at 3 (imposing sanction where petitioner's filings for certiorari review had a deleterious effect on the Court's fair allocation of judicial resources); see also *Peterson*, 817 So. 2d at 840 ("This Court has a responsibility to ensure every citizen's right of access to the courts. . . . A limitation on [the petitioner's] ability to file would further the constitutional right to access for other litigants because it would permit this Court to devote its finite resources to the consideration of legitimate claims filed by others."). As noted by the United States Supreme Court, "[e]very paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice." *In re McDonald*, 489 U.S. at 184.

Upon a thorough review of the filings of Sibley in this Court, we conclude that Sibley has abused the processes of the Court and has hindered the ability of this Court to properly resolve those matters which are properly before the Court. We conclude that sanctions are merited on this record. Accordingly, in order to preserve the right of access for all litigants and promote the interests of justice, the Clerk of this Court is hereby instructed to reject for filing any future pleadings, petitions, motions, documents or other filings submitted by Montgomery Blair Sibley in any way related to his domestic disputes, unless signed by a member in good standing of The Florida Bar other than Montgomery Blair Sibley. Under the sanction herein imposed, Sibley is not wholesale being denied access to the courts. He may petition the Court through the assistance of counsel other than himself, whenever such counsel determines that the proceeding may have merit and can be filed in good faith. However, petitioner's frivolous and abusive filings must immediately come to an end. Further, if Montgomery Blair Sibley submits a filing in violation of this order, he may be subjected to further contempt proceedings or other appropriate sanctions.

It is so ordered.

PARIENTE, C.J., and WELLS, ANSTEAD, LEWIS, QUINCE, CANTERO, and BELL, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF FILED, DETERMINED.

SUPREME COURT OF FLORIDA

THURSDAY, JUNE 15, 2006

CASE NO.: SC04-2129

MONTGOMERY BLAIR SIBLEY vs. FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

Petitioner(s) Respondent(s)

Petitioner's Rule 9.330 Motion for Rehearing is hereby denied.

ANSTEAD, LEWIS, CANTERO and BELL, JJ..